

# STATE OF INDIANA

DEPT OF LOCAL GOVERNMENT FINANCE  
BUDGET DIVISION



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## MEMORANDUM

TO: County Assessors, County Auditors, and County Treasurers

FROM: Cheryl A.W. Musgrave, Commissioner *CAM*

DATE: March 20, 2008

SUBJECT: Provisional and Reconciling Property Tax Bills

1. The purpose of this memorandum is to provide counties with information to assist them in sending provisional property tax bills to taxpayers. The Department of Local Government Finance ("Department") anticipates that many counties will consider sending provisional property tax bills in 2008. This anticipated use is due to delays in the county's transmittal of assessed values to the Department pursuant to Indiana Code section 6-1.1-17-1 and, consequently, a delay in the approval of budget orders by the Department per Indiana Code section 6-1.1-17-16.
2. Provisional property tax bills are a useful tool for counties to collect monies and distribute to taxing units when the mailing of the regular tax bill under Indiana Code section 6-1.1-22-8.1 is not possible for the reasons stated above.

## PROVISIONAL PROPERTY TAX BILL

### Allowable Use

3. For the March 1, 2007 assessment date (i.e., 2007-pay-2008), the County Treasurer may use a provisional tax bill if the County Auditor fails to deliver the abstract of the property, assessments, taxes, deductions, and exemptions to the County Treasurer before March 16, 2008. Ind. Code § 6-1.1-22.5-6(a).
4. The County Treasurer must give proper legal notice of the provisional tax bill, including disclosure of the method that is to be used in determining the tax liability to be indicated on the provisional tax bills. Ind. Code § 6-1.1-22.5-6(b).
5. Provisional tax bills cannot be sent if the County Auditor fails to deliver the abstract before March 16 because of certain levy appeals filed by a fiscal officer of a political subdivision or school corporation. Ind. Code § 6-1.1-22.5-6(c); Ind. Code § 6-1.1-22-5(b).

## **Waiving Use**

6. The County Auditor or fifty (50) property owners may request that the Department deny the county the opportunity to send out provisional tax bills. Ind. Code § 6-1.1-22.5-7(a).
7. Upon request for such a waiver, the Department must conduct a public hearing concerning the request. Ind. Code § 6-1.1-22.5-7(b).
8. After the hearing, the Department may waive use of a provisional tax bill if it finds that the petitioners presented sufficient evidence to establish that, although the abstract was not delivered in a timely manner, the abstract:
  - a. was delivered as of the date of the hearing; or will be delivered not later than a date specified by the County Auditor and County Treasurer; and
  - b. sufficient time remains or will remain after the date or anticipated date of delivery of the abstract to:
    - (1) permit the timely preparation and delivery of regular property tax bills in the manner provided by IC 6-1.1-22-8.1; and
    - (2) render the use of a provisional tax bill unnecessary.

## **Form and Contents**

9. A provisional tax bill must:
  - a. be on a form approved by the State Board of Accounts (SBoA) (the county must send its reconciling tax bill form to the SBoA for approval prior to its use);
  - b. indicate tax liability in the amount of ninety percent (90%) of the tax liability that was payable in the same year as the assessment date for the property for which the provisional tax bill is issued (i.e., ninety percent (90%) of the 2006-pay-2007 tax liability for a provisional tax bill transmitted and due for 2007-pay-2008);
  - c. indicate:
    - (1) that the tax liability under the provisional tax bill is determined as described above (i.e., ninety percent (90%) of the tax liability); and
    - (2) that property taxes billed on the provisional tax bill will be credited against a reconciling tax bill;
  - d. include a statement in the following or a substantially similar form:

“Under Indiana law, \_\_\_\_\_ County (insert county) has elected to send provisional statements because the county did not complete the abstract of the

property, assessments, taxes, deductions, and exemptions for taxes payable in (insert year) in each taxing district before March 16, (insert year). The statement is due to be paid in installments on \_\_\_\_\_ (insert date) and \_\_\_\_\_ (insert date). The statement is based on ninety percent (90%) of your tax liability for taxes payable in (insert year), subject to adjustment for any new construction on your property or any damage to your property. After the abstract of property is complete, you will receive a reconciling statement in the amount of your actual tax liability for taxes payable in (insert year), minus the amount you pay under this provisional statement”;

- e. indicate liability for delinquent taxes and special assessments; penalties; and interest; and
  - f. include any other information the County Treasurer requires. Ind. Code § 6-1.1-22.5-8.
10. For 2007-pay-2008, property taxes billed on a provisional tax bill are due in two (2) equal installments on May 10, 2008 and November 10, 2008. Ind. Code § 6-1.1-22.5-9(a).
11. However, if in a county the notices of assessment (i.e., Form 11) under the annual adjustment/trending statute are given to the taxpayers *after* March 26, 2008, property taxes that would otherwise be due on May 10, 2008 are due on the later of:
- a. May 10, 2008; or
  - b. forty-five (45) days after the mailing of the provisional tax bills. Ind. Code § 6-1.1-22.5-9(b).
12. For 2007-pay-2008, for those property taxes that would otherwise be due on November 10, 2008 are due on the later of:
- a. November 10, 2008; or
  - b. a date determined by the County Treasurer that is not later than December 31, 2008. Ind. Code § 6-1.1-22.5-9(c).

## **RECONCILING PROPERTY TAX BILL**

### **Notice of Tax Rates; Mailing Reconciling Tax Bills**

13. As soon as possible after the receipt of the abstract, the County Treasurer must:
- a. give the notice of the tax rates per \$100 of assessed value to be collected in the county under Indiana Code section 6-1.1-22-4; and
  - b. mail reconciling tax bills. Ind. Code § 6-1.1-22.5-11.

## **Contents**

### **14. Each reconciling tax bill must indicate:**

- a. the actual property tax liability for the assessment date for the property for which the reconciling statement is issued (i.e., March 1, 2007);
- b. the total amount paid under the provisional tax bill;
- c. if the amount of the property tax liability exceeds the amount paid under the provisional tax bill, the excess due is owed by the taxpayer:
  - (1) as a final reconciliation of the tax liability; and
  - (2) not later than:
    - (a) thirty (30) days after the date of the reconciling statement;
    - (b) if the County Treasurer requests in writing that the Commissioner of the Department designate a later date, the date designated by the Commissioner; or
    - (c) the date specified in an ordinance adopted by the county council that allows a taxpayer to make installment payments of a reconciling tax bill *[new section effective as of March 19, 2008 -- see discussion below]*; and
- d. if the total amount paid under the provisional tax bill is more than the amount owed, the taxpayer may claim a refund under Indiana Code chapter 6-1.1-26. Ind. Code § 6-1.1-22.5-12(a).

15. Counties are to send out a version of the Department's TS-1 (tax comparison statement) to accompany the reconciling tax bill, which is specific to the reconciling tax bill. The version, called the TS-1-R, is currently being developed by the Department. It provides taxpayers valuable information about where the taxpayer's tax dollars are being distributed to the various units of government, like schools and libraries.

### **Payments to County Treasurer**

16. Taxpayers must make all provisional tax bill and reconciling tax bill payments to the County Treasurer. Ind. Code § 6-1.1-22.5-13.

### **Report of Settlement; Distribution of Tax Collections**

17. Within fifty-one (51) days after the due date of the provisional tax bill or reconciling tax bill, the County Auditor must file with the State Auditor a report of settlement, and distribute tax collections to the appropriate taxing units. Ind. Code § 6-1.1-22.5-14.

## **Procedures for Appeals of Assessment and Corrections of Error**

18. The property tax appeal procedures under Indiana Code chapter 6-1.1-15 do not apply to a provisional tax bill, but the appeal procedures do apply to a reconciling tax bill. Ind. Code § 6-1.1-22.5-16. The reason is the provisional tax bill is based upon the assessed valuation and ninety percent (90%) of the tax liability from the previous assessment year, which the taxpayer had the previous opportunity to appeal.

19. *New Provision of Indiana Law for March 1, 2007 assessment date.* HEA 1001, which was signed into law by Governor Daniels on March 19, 2008, includes a retroactive provision effective as of July 1, 2007. This non-Code provision allows a taxpayer that receives a regular tax bill or a provisional tax bill for the first installment of property taxes for 2007-pay-2008 to appeal an assessment by filing an appeal with the assessing official not later than:

a. forty-five (45) days after:

(1) the regular tax bill; or

(2) the reconciling tax bill that reconciles the taxes from the provisional tax statement

-- is given to the taxpayer; or

b. July 1, 2008

-- whichever is later. HEA 1001, Sec. 868.

## **County Council May Pass Ordinance Permitting Use of Installment Payments**

*Indiana Code section 6-1.1-22.5-18.5 is a new section of the Indiana Code under HEA 1001, and went into effect upon passage -- March 19, 2008.*

20. A county council may adopt an ordinance to allow a taxpayer to make installment payments of a reconciling tax bill. Ind. Code § 6-1.1-22.5-18.5(a).

21. Such an ordinance must specify:

a. the reconciling tax bill to which the ordinance applies; and

b. the installment due dates. Ind. Code § 6-1.1-22.5-18.5(b).

22. An ordinance must give taxpayers in the county the option of:

a. making a single payment of the tax payment due on the date specified in the reconciling tax bill; or

b. paying installments of the tax payment due over an installment period specified in the ordinance. Ind. Code § 6-1.1-22.5-18.5(c).

23. If the total amount due on an installment date is not completely paid, the unpaid amount is delinquent and a penalty is added. The penalty is equal to an amount determined as follows:

a. If:

(1) the delinquent amount of real property taxes is completely paid within thirty (30) days after the installment date; and

(2) the taxpayer is not liable for delinquent property taxes payable in a previous year for the same parcel

-- the amount of the penalty is five percent (5%) of the delinquent amount.

b. If:

(1) the delinquent amount of personal property taxes is completely paid within thirty (30) days after the installment date; and

(2) the taxpayer is not liable for delinquent property taxes payable in a previous year for a personal property tax return for property in the same taxing district

-- the amount of the penalty is equal to five percent (5%) of the delinquent amount.

c. If the taxes on the real or personal property is not completely paid within 30 days after the installment due date, the amount of the penalty is ten percent (10%) of the delinquent amount. Ind. Code § 6-1.1-22.5-18.5(d).

24. An additional penalty of ten percent (10%) of any taxes due that remain unpaid is added on the day immediately following the date of the final installment payment. Ind. Code § 6-1.1-22.5-18.5(e).

25. The penalties are imposed only on the principal amount of the delinquent taxes. Ind. Code § 6-1.1-22.5-18.5(f).

26. Approval by the Department is not required for adoption of the ordinance. Ind. Code § 6-1.1-22.5-18.5(h).

***Additional Code References Regarding Provisional Bills:***

Interest on Undistributed Tax Collections	IC 6-1.1-22.5-15
Applicability of Penalties to Provisional and Reconciling Statements	IC 6-1.1-22.5-17
Installments; Delinquent List	IC 6-1.1-22.5-18

Supplementary Effect on Other Provisions  
Adoption of Emergency Rules

IC 6-1.1-22.5-19  
IC 6-1.1-22.5-20

27. This memorandum is a summary of the provisional tax bill and reconciling tax bill statutes. Please seek the advice of your county attorney to ensure all of the proper legal steps are followed before provisional tax bills and/or reconciling tax bills are mailed. If you still have questions about provisional tax bills or reconciling tax bills, please contact your budget field representative or the Budget Division at (317) 234-5592.